

STATE OF MICHIGAN
COURT OF APPEALS

LINDA REED,

Plaintiff-Appellee,

V

CITY OF DETROIT,

Defendant-Appellant.

UNPUBLISHED

January 27, 2005

No. 247557

Wayne Circuit Court

LC No. 02-202008-CZ

Before: Meter, P.J., and Wilder and Schuette, JJ.

PER CURIAM.

Defendant appeals as of right an order granting plaintiff's motion for reconsideration, vacating the trial court's earlier grant of summary disposition in favor of defendant, and providing an extended redemption period in which plaintiff could redeem a parcel of real property that had been the subject of a tax forfeiture to defendant in an earlier circuit court case. We reverse. This case is being decided without oral argument under MCR 7.214(E).

Defendant argues that the trial court incorrectly granted plaintiff's motion for reconsideration and granted relief to her because the present action was barred by the doctrine of res judicata. We agree. A trial court's decision regarding a motion for reconsideration is reviewed for an abuse of discretion. *Churchman v Rickerson*, 240 Mich App 223, 233; 611 NW2d 333 (2000). However, we review the applicability of the doctrine of res judicata de novo as a question of law. *Ditmore v Michalik*, 244 Mich App 569, 574; 625 NW2d 462 (2001).

Res judicata bars a subsequent action "where the first action was decided on its merits, the second action was or could have been resolved in the first action, and both actions involve the same parties or their privies." *Solution Source, Inc v LPR Associates Limited Partnership*, 252 Mich App 368, 376; 652 NW2d 474 (2002). Res judicata bars "every claim arising from the same transaction that the parties, exercising reasonable diligence, could have raised but did not." *Id.*, quoting *Dart v Dart*, 460 Mich 573, 586; 597 NW2d 82 (1999). "Res judicata relieves parties of the cost and vexation of multiple lawsuits, conserves judicial resources, and encourages reliance on adjudication." *Ditmore, supra* at 576.

The 1999 tax foreclosure in the prior action was plainly a resolution of that action on the merits. In this regard, it is undisputed that the judgment in that action applied only to the property that is also the subject of the present action, i.e., the property at 820 West Baltimore. Plaintiff's claim in the present action is premised on defendant having provided improper notice

in the prior action as to the property subject to forfeiture because of the incorrect reference to an additional parcel of property in the complaint in the prior action and other documents. Because Edith Morisseau participated in the prior action, it is apparent that she was aware of the action and, with due diligence, could have raised the issue of this disparity in the description of the subject property in the prior action. It is also beyond reasonable dispute that Morisseau and plaintiff are privies with regard to this case. Parties are in privity for purposes of res judicata where they are so identified in interest “that the first litigant represents the same legal right that the later litigant is trying to assert.” *Adair v Michigan*, 470 Mich 105, 122; 680 NW2d 386 (2004). Given that plaintiff’s alleged interest in the property at issue is based entirely on a quit claim deed from Morisseau, it is manifest that Morisseau was representing the same legal right with regard to ownership of the subject property in the prior action as plaintiff is representing in the present action. Thus, the trial court erred by granting relief to plaintiff in the order being appealed. Rather, defendant was entitled to judgment as a matter of law based on res judicata.

Without citing legal authority in support of this proposition, plaintiff argues that the prior action does not bar her claim in the present action based on res judicata because defendant’s failure to provide proper legal notice rendered the prior proceedings voidable. We reject this position which amounts to an assertion that res judicata should not apply in a present action if legal error occurred in a prior proceeding. It is apparent that this argument is contrary to the basic point of the doctrine of res judicata, namely to preclude repetitive litigation. Res judicata would be a meaningless concept if the preclusive effect it affords the resolution of a prior action could be avoided based merely on a claim that the result of the prior action involved legal error.

Because the res judicata question is dispositive, it is unnecessary to reach the other questions presented by the parties.

We reverse the order being appealed and reinstate the trial court’s earlier grant of summary disposition in favor of defendant.

/s/ Patrick M. Meter
/s/ Kurtis T. Wilder
/s/ Bill Schuette